

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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| -----X | | |
| JOSE RODRIGUEZ, | : | |
| | : | |
| Plaintiff, | : | 23-CV-5531 (LAK) (OTW) |
| | : | |
| -against- | : | <u>POST-CONFERENCE ORDER</u> |
| | : | |
| THE CITY OF NEW YORK, | : | |
| | : | |
| Defendant. | : | |
| -----X | | |

ONA T. WANG, United States Magistrate Judge:

The Court held a Status Conference in this matter on Thursday, May 9, 2024, during which I made rulings on the record.

1. Rule 12 Motion

The City indicated that, notwithstanding filing their Answer to the Amended Complaint on March 14, 2024 (ECF 33), they were considering filing a Rule 12 motion. Any Rule 12 motion shall be filed as follows:

- Motion due by June 7, 2024.
- Plaintiff's opposition is due June 21, 2024.
- Defendants' reply, if any, is due June 28, 2024.

2. The "DA Defendants"

It also came to the Court's attention at the conference that as of December 8, 2023, when Plaintiff filed the First Amended Complaint (ECF 21), naming only the City of New York and alleging only claims against the City, the only parties in this case were Plaintiff, Jose Rodriguez, and the City. The docket subsequently (and confusingly) reflected a stipulation and a motion to dismiss purporting to dismiss the DA Defendants, the New York County District

Attorney's Office and Assistant District Attorney Christopher Marinelli, and a request to stay discovery against the DA Defendants. (*See, e.g.*, ECF Nos. 24, 25, and 32). At the conference, the Court confirmed with counsel for Plaintiff, Defendant, and the now-dismissed "DA Defendants," that they all agreed that the DA Defendants were no longer parties to this case upon the filing of the Amended Complaint. The parties also all confirmed on the record that they all agreed that the DA Defendants should be – or should have been – dismissed with prejudice. Accordingly, the docket should reflect that all other defendants on the docket (with the exception of the City), should be terminated as of December 8, 2023.

Thus, the motion to dismiss the DA Defendants, filed on March 14, 2024 (ECF 32), sought to dismiss parties that were not named in the operative complaint, and thus was moot when filed, and continues to be moot in light of the parties' expressed intent that the "DA Defendants" should be, or should have been, dismissed with prejudice.

3. Monthly Status Letters

The parties are directed to file a joint status letter on the progress of discovery on the last business Friday of each month, **beginning on June 28, 2024**. In their June 28, 2024 letter, the parties shall indicate whether they would like a referral to the Court-annexed mediation program, or to schedule a pre-settlement conference call with the Court.

The Clerk of Court is respectfully directed to close ECF 32.

SO ORDERED.

Dated: May 10, 2024
New York, New York

s/ Ona T. Wang
Ona T. Wang
United States Magistrate Judge